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attempted to arrange an extension of time and also for undertaking to defend him in such criminal proceedings as might thereafter be commenced. *Held*, reversing the lower court, that all of the property, except the attorney's fee of \$530, is recoverable by the trustee, as such transfer was not validated by section 60 d of the Federal Bankruptcy Act (3 U. S. Comp. St., 1901, p. 3446.) *In re Habegger* (1905) (C. C. A., Eighth Circuit), 139 Fed. Rep. 623.

The general, unrestricted language of section 60 d, *supra*, has given rise to much doubt. The court decides that only such general legal services as are either beneficial to the estate or rendered in representing it before the court are entitled to priority of payment; and in so doing is in harmony with the better reasoned cases. *In re Kross*, 96 Fed. Rep. 816; *Randolph v. Scruggs*, 190 U. S. 533; *In re Smith*, 108 Fed. Rep. 39. Claims for representing bankrupts at their examinations before referees should be disallowed. *In re Rosenthal & Lehman*, 120 Fed. Rep. 848. It was held in *Pratt v. Bothe*, 130 Fed. Rep. 670, that section 60 d, *supra*, is (1) limited to the allowance of reasonable compensation to attorneys for services rendered to the bankrupt prior to the commencement of the bankruptcy proceedings; and (2) does not cover services rendered in resisting the creditor's petition for an adjudication of bankruptcy. *Furth v. Stahl*, 10 Am. Bankr. Rep. 442, 55 Atl. Rep. 29, in denying the (2) point, *Pratt v. Bothe*, *supra*, is in accord with the principal case; but also conflicts with it in holding that there is no relation between the kind of legal services provided for in section 60 d and clause 3 of section 64 b of the Act, saying that the latter have priority by virtue of the statute itself, while the former depend both as to payment and amount on the acts of the parties. However, this distinction appears not to be in harmony with the purpose of the Act nor the weight of authority, as indicated by the principal case.

BANKS—LIABILITY OF PRIVATE BANKER.—Action by assignees of depositors in a private bank to recover from the former owner of the bank the difference between the amounts due them by the bank and the dividends paid by the receiver. Respondent opened the bank a few years before, fraudulently pretending that it was incorporated and had \$25,000 capital, thereby securing some deposits. Without notice to plaintiffs' assignors he sold to an incompetent banker who assumed all debts. The latter so mismanaged the business as to render it insolvent. *Held*, plaintiffs could recover the loss sustained. *Johnson et al. v. Shuey* (1905), — Wash. —, 82 Pac. Rep. 123.

Irrespective of any fraud, when respondent took deposits as a private banker he assumed a personal liability to repay them on demand. *Tinkham & Co. v. Heyworth*, 31 Ill. 519; *Brahm et al. v. Adkins*, 77 Ill. 263; *Bank v. Bank*, 39 Pa. St. 92; *Thompson v. Riggs*, 5 Wall. 663; *Codd v. Rathbone*, 19 N. Y. 37. This obligation did not cease with the sale of the bank, even though it were bona fide, as to depositors at the time of transfer or those who might deposit subsequently in ignorance of it without negligence on their part. *Kelso v. Fleming*, 104 Ind. 180; *Sargeant v. Daunoy*, 14 La. 43; *Levi-stones v. Landreaux*, 6 La. Ann. 26. The fact that the plaintiffs presented their claims to the receiver and took their pro rata dividends does not conclude them from enforcing respondent's liability for the balance on the

ground that they had elected to make his vendee their debtor. *Bowen v. Mandeville*, 95 N. Y. 237; *Radman v. Haberstro*, 1 N. Y. Supp. 561. The case is one of two persons being obligated to pay the same debt and only one being looked to for it instead of one person electing between two remedies against the same person. *Bowman v. Mandeville* and *Radman v. Haberstro*, *supra*. The rule is well settled in Washington that the effect of the vendees promise was to give the depositor a joint and several right of action against himself and his vendor. *Nordby v. Winsor*, 24 Wash. 535; *Gilmore v. Skookum Box Factory*, 20 Wash. 703. The determination of the court that there was a certain amount due the respondent and the order that it should be paid him and this being done "the same shall be a final and complete determination of all matters between the said receiver and the said Shuey" was merely an adjudication between those parties and not one affecting the other depositors or their assignees so as to bar them from making further claims. *Phipps v. Tarpley*, 24 Miss. 597; *Chamberlain v. Carlisle*, 26 N. H. 540; *Stevens v. Jack*, 11 Tenn. 403; *Taylor v. Means*, 73 Ala. 468; *Harrington v. Wadsworth*, 63 N. H. 400; *McCamant v. Roberts*, 66 Tex. 260.

COMMON CARRIERS—DUTY TO RECEIVE HELPLESS PERSONS AS PASSENGERS—DEGREE OF CARE REQUIRED WHEN ACCEPTED.—Plaintiff, a blind man 77 years of age, applied to the agent of a carrier for a ticket to a place some 140 miles distant. The agent refused to sell him a ticket on the ground that the company had a rule forbidding the sale of tickets to persons physically unable to take care of themselves, unless accompanied by an attendant. Held, that in the absence of knowledge on the part of the agent of the plaintiff's competency to travel alone, the agent was justified in his refusal. *Illinois Central Railroad Co. v. Allen* (1905), — Ky. —, 89 S. W. Rep. 150.

It seems to be settled, although there are few direct adjudications on the point, that a carrier of passengers may refuse to carry a person, who for any cause is unfit to travel alone, unless accompanied by an attendant. *Croom v. Railway Company*, 52 Minn. 296, 18 L. R. A. 602, 38 Am. St. Rep. 557. However, the cases are not in harmony on the question as to what degree of care a railroad company owes to a helpless person who has been in fact accepted as a passenger. In the principal case it is said, that if a carrier voluntarily undertakes to carry such a person, it assumes a degree of care commensurate with the passenger's needs. In accord with this view is *Sheridan v. Brooklyn, etc. R.R. Co.*, 36 N. Y. 39, 93 Am. Dec. 490. To the contrary is *Railroad v. Statham*, 42 Miss. 607, 97 Am. Dec. 478; also 2 RORER ON RAILWAYS, p. 1148. It is true, as said in *Railroad v. Statham*, that "Railroad cars are not travelling hospitals, nor their employees nurses," but to hold that a carrier may accept for transportation an unattended helpless passenger and then escape the responsibility to exercise the degree of care made necessary by the passenger's unfortunate condition is not only illogical but highly inhuman; and especially is this true, since the additional burden is voluntarily assumed. The late case of *Railroad Company v. Smith*, 85 Miss. 349, 37 So. Rep. 643, is in harmony with the principal case. For a discussion of the questions involved, see 97 Am. Dec. 498, note.